

Appl. No. 10/813,877
Amdt. dated January 6, 2006
Reply to Office Action of December 22, 2005

PATENT

Amendments to the Drawings:

The attached 6 sheets of drawings include Figures 1-9 and replace the original sheets including Figures 1-9. No substantive changes have been made to the Figures.

Attachment: Replacement Sheets

REMARKS/ARGUMENTS

In response to the Office Action mailed December 22, 2005, Applicants submit the following response. This response combines the subject matter of the responses filed on October 4, 2005 in response to the Notice of Non-Compliant Amendment mailed September 23, 2005, as well as the subject matter of the response filed December 15, 2005 in response to the Office Action mailed September 23, 2005. While Applicants do not agree that the response filed on October 4, 2005 was non-responsive to the Notice of Non-Compliant Amendment, as alleged in the Office Action mailed December 22, 2005, in order to expedite prosecution, Applicants submit the following.

Claims 1-41 were pending in this application. Claims 20 and 36 have been amended. Claims 1-19, 32-35 and 41 have been canceled without prejudice or disclaimer as being drawn to a non-elected invention. No new claims have been added. Hence, Claims 20-31 and 36-40 remain pending, of which Claims 26-27 are withdrawn from consideration as being drawn to a non-elected species. Claims 20 and 36 have been amended to further describe the pillow. Support for these amendments may be found throughout the specification, figures, and claims, *e.g.*, at paragraphs [0036]-[0044]. As such, no new matter enters by way of the present amendment. Entry of the present amendment, and reconsideration of the subject application as amended is respectfully requested.

I. DRAWINGS/NON-COMPLIANT AMENDMENT

In response to the Notice of Non-Compliant Amendment mailed September 23, 2005, replacement drawings with corrected labels are submitted herewith.

II. ELECTION/RESTRICTION REQUIREMENT

Applicants hereby acknowledge the election of Species II, claims 20-25, 28-31, and 36-40, without traverse. As such, the claims of Species III, Claims 26 and 27 stand withdrawn from consideration pending allowance of generic claim 20.

Further, Applicants have now canceled non-elected claims 1-19, 32-35 and 41 without prejudice or disclaimer.

III. CLAIM REJECTION UNDER 35 U.S.C. § 102(B)

Claims 20-25, 31, 36, and 40 stand rejected under 35 U.S.C. § 102 (b) as allegedly anticipated by U.S. Patent No. 5,675,853 to Linge (hereinafter "Linge"). This rejection is respectfully traversed for at least the reasons which follow.

The present invention relates to baby holding devices comprising a pillow and a securing system. The pillow includes a medial region and two opposing curved arms extending from the medial region that define an inner well region. The curved arms have rounded ends that are spaced apart from each other so as to generally face each other.

In support of the rejection, the Examiner asserts that Linge discloses a baby holding device having pillow 10 with a medial region 32 and two opposed arms extending from the medial region that define a inner well. However, it is respectfully submitted that the resilient cushion actually disclosed by Linge does not disclose the presently claimed baby holding devices.

It is well established that to anticipate a claim, a reference must disclose every element of the claim. *Verdegaal Bros. v. Union Co. of California*, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 9 U.S.P.Q.2d 1913 (Fed. Cir. 1989).

It is submitted that Linge does not disclose a pillow having a medial region and two opposing curved arms extending from the medial region that define an inner well region, wherein the curved arms have rounded ends that are spaced apart from each other so as to generally face each other. In contrast, the cushion taught by Lange comprises "a generally rectangular resilient cushion portion of foam or other suitable material, having a generally central depression extending across the majority of the cushion." *Linge*, Abstract. Nowhere is there any disclosure or suggestion of curved arms with rounded ends spaced apart so as to generally face each other.

Absent such teachings, Linge does not disclose each and every element of the claims. For at least these reasons, withdrawal of this rejection is respectfully requested.

IV. CLAIM REJECTION UNDER 35 U.S.C. § 103(A)

Claims 28-30 and 37-39 stand rejected under 35 U.S.C. § 103 (a) as allegedly unpatentable over Linge. This rejection is respectfully traversed for at least the reasons which follow.

The Examiner acknowledges that Linge does not disclose the specifically claimed height and width ranges of the medial region and arms as required by the claims. However, in support of the rejection, the Examiner alleges that such ranges would have been an obvious matter of design choice. Applicants respectfully traverse.

To establish a *prima facie* case of obviousness, the prior art reference (or references when combined) must teach or suggest all of the claim limitations. There must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. The teaching or suggestion to make the claimed combination must be found in the prior art, and not be based on applicants' disclosure. See *M.P.E.P.* §§2143.01 and 2143.03.

As discussed above, Linge discloses a cushion with a rectangular resilient cushion portion having a generally central depression extending across the majority of the cushion. Linge also discloses that the cushion may be provided with a removable and washable changing pad securable to the underside of the cushion for storage. As disclosed, the underside of the cushion of Linge may be used as storage for a removable changing pad.

Taken as a whole, one of skill would not look to modify the teachings of Linge so as to arrive at the presently claimed curved configuration, or to arrive at the claimed optimal ranges. The cushion as taught by Linge is rectangular in shape, and is described as supporting a changing pad and blanket. Based on such teachings, one of skill in the art would not be motivated to arrive at a configuration comprising curved arms with rounded ends that are spaced apart from each other so as to generally face each other. Moreover, absent a curved orientation, one of skill in the art would not arrive at the specially claimed ranges, as one of skill would not be lead to select height and width ranges based on a curved configuration, much less to select the specifically claimed height and width ranges.

In addition, it is submitted that Linge in fact teaches away from a curved configuration based on the teaching of the incorporation of a changing pad, in that a curved configuration with rounded ends spaced apart so as to generally face each other would not be generally expected to accommodate a changing pad surface.


For at least these reasons, it is submitted that the claims are patentable over Linge, and withdrawal of this rejection is respectfully requested.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,



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Attachments
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